

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION AT JACKSON

CHRISTINE BUTLER

PLAINTIFF

VS.

CAUSE NO. 3:18-cv-797-HTW-LRA

THE KROGER COMPANY AND
JOHN DOES PERSON(S) 1-5 AND
JOHN DOES ENTITY (IES) 1-5

DEFENDANTS

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant, The Kroger Co., (sometimes hereinafter referred to as "Kroger" or "Defendant"), by and through counsel, has removed this action pursuant to 28 U.S.C. §§ 1332, 1441, 1446 and other applicable law, from the Circuit Court of Warren County, Mississippi, (Civil Cause No. 18,0096-CI (MEC Case Number: 75CI1:18-cv-00096)) to the United States District Court for the Southern District of Mississippi, Northern Division, located at Jackson, MS. The basis for removal is diversity of citizenship.

Nature of the Civil Action Removed

1.

On October 3, 2018, the Plaintiff filed the above captioned civil action. Process was served upon Defendant on or about October 16, 2018. This lawsuit first became removable to this Court at that time. A copy of the Plaintiff's Complaint filed with the Circuit Clerk of Warren County, Mississippi, along with all process, pleadings and orders served upon this Defendant is attached hereto as **Exhibit "A"** and incorporated herein by reference.

2.

The Complaint alleges that this lawsuit arose out of an incident at the Kroger Store in Vicksburg, Mississippi, on February 1, 2016. The Complaint alleges that as Plaintiff was

walking out of the door it closed suddenly and struck her right arm causing her to sustain serious bodily injuries. The Complaint (Paragraph 9) alleges and demands an unlimited amount, including past, present and future physical pain and suffering, emotional and mental suffering, hospital bills, doctor bills, prescription drug bills, and other medical and medical-related expenses which will continue to be incurred in the future, physical impairment and disability, and loss of enjoyment of life. Plaintiff, by and through legal counsel, claims medical expenses in excess of \$68,000. The Complaint states, in part:

* * *

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands Judgment of, from, and against the Defendant in an within the jurisdictional limited of this court, to be determined at the trial of this cause, plus interest from the date of the filing of the original Complaint and all costs of court.

* * *

Removal Based on Diversity of Citizenship

3.

Taking the allegations of the Complaint as true, Plaintiff is an adult resident citizen of Warren County, Mississippi.

4.

The Kroger Co. is a corporation, formed under the laws of the State of Ohio with its principal place of business located within the State of Ohio. All Defendants required for removal have consented to and/or joined in this removal.

5.

Pursuant to 28 U.S.C. § 1332 and § 1441, this Court has original subject matter jurisdiction over the present action based on diversity of citizenship, in that it is a civil action

where the matter in controversy is between citizens of different states and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. The Complaint alleges and demands an unlimited amount. On or about July 17, 2018, Counsel for Plaintiff made a settlement request of \$450,000.00, indicating it was “a reasonable demand for compensation for actual and future damages, pain and suffering, both past and future, and loss of past and future enjoyment of life.”

6.

Pursuant to 28 U.S.C. § 1441, the United States District Court for the Southern District of Mississippi, Northern Division at Jackson, is the federal district court for the district and division embracing the place where the state court suit is pending.

7.

**Notice to Adverse Parties and the
Clerk of the Circuit Court, Warren County, Mississippi**

8.

The removing defendant hereby certifies that written notice of the filing of this NOTICE OF REMOVAL has been served upon all adverse parties and a copy will be filed with the Clerk of the Circuit Court of Warren County, Mississippi, thereby effecting the removal of this action to this Court. Pursuant to 28 U.S.C. § 1446(d) notice is hereby given that the state court action shall proceed no further unless and until the case is remanded.

WHEREFORE, PREMISES CONSIDERED, the removing Defendant files this NOTICE OF REMOVAL with the United States District Court for the Southern District of Mississippi, Northern Division at Jackson, and respectfully prays that this Court will proceed with the handling of this case as if it had been originally filed herein, and that further

proceedings in the Circuit Court of Warren County, Mississippi, shall proceed no further unless and until the case is remanded thereto.

RESPECTFULLY SUBMITTED, this the 15th day of November, 2018.

FOR: **The Kroger Co.**

BY:


MONTE L. BARTON JR.

OF COUNSEL:

Monte L. Barton Jr. (MSB #2095)

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CERTIFICATE OF SERVICE

I, the undersigned attorney of record, do hereby certify that I have this day served a true and correct copy of the foregoing NOTICE OF REMOVAL via the ECF and MEC systems upon the following:

Raju Aundré Branson (MSB #99950)
Schwartz & Associates, P.A.
162 East Amite Street (39201)
P.O. Box 3949
Jackson, MS 39207-3949
Telephone: 601-988-8888
Facsimile: 601-948-3822
Email: abranson@1call.org
ATTORNEY FOR PLAINTIFF

Jan H. Daigre, Warren County Circuit Clerk
P.O. Box 351
VICKSBURG, MS 39181
PHONE: (601) 636-3961

THIS, the 15th day of November, 2018.

BY:



MONTE L. BARTON JR.